

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL L. BEST,)	No. C 02-2113 JSW (PR)
)	
Petitioner,)	
)	ORDER DENYING
vs.)	CERTIFICATE OF
)	APPEALABILITY AND
DIRECTOR, CALIFORNIA)	DENYING MOTION FOR
DEPARTMENT OF CORRECTIONS,)	EXTENSION OF TIME
)	
Respondent.)	(Docket nos. 47, 49)


Petitioner, a state prisoner, has timely filed a notice of appeal from this Court's judgment, entered September 29, 2005, denying the petition for writ of habeas corpus on the merits. Petitioner has also filed a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b) (docket no. 49). Petitioner has also filed a request for extension of time to file a notice of appeal, which is DENIED as moot (docket no. 47).

A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of the constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, the request for a certificate of appealability is DENIED (docket no. 49).

The Clerk of Court shall forward this order, along with the case file, to the United States Court of Appeals for the Ninth Circuit from which Petitioner may also seek a

1 certificate of appealability. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir.
2 1997).

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4 DATED: November 21, 2005

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6 JEFFREY S. WHITE
United States District Judge